

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

MDL No. 3076  
Case No. 1:23-md-03076-KMM

**IN RE:**

**FTX Cryptocurrency Exchange Collapse Litigation**

---

This Document Relates To:

*Garrison, et al. v. Bankman-Fried, et al.*,  
Case No. 22-cv-23753-MOORE/OTAZO-REYES

*Garrison, et al. v. Kevin Paffrath, Graham Stephan, Andrei Jikh, Jaspreet Singh, Brian Jung, Jeremy Lefebvre, Tom Nash, Ben Armstrong, Erika Kullberg, and Creators Agency, LLC*,  
Case No. 23-cv-21023

*Garrison, et al. v. Shohei Ohtani, Naomi Osaka, Lawrence Gene David, and Solomid Corp.*,  
Case No. 23-cv-23064 -KMM

*Garrison, et al. v. Golden State Warriors, LLC*,  
Case No. 1:23-cv-23084-KMM

---

**“PROMOTERS AND DIGITAL CREATOR” DEFENDANTS’ MOTION  
FOR LEAVE TO FILE SEPARATE BRIEFS IN RESPONSE TO  
[CORRECTED] ADMINISTRATIVE CLASS ACTION COMPLAINT [ECF 179]**

Defendants Thomas Brady, Gisele Bündchen, Stephen Curry, Lawrence David, Golden State Warriors, LLC, Udonis Haslem, Shohei Ohtani, Kevin O’Leary, Shaquille O’Neal, David Ortiz, Naomi Osaka, and Solomid Corporation (collectively, the “S&E Defendants”) and Defendants Graham Stephan, Andrei Jikh, Jaspreet Singh, Brian Jung, Jeremy Lefebvre, Tom Nash, Erika Kullberg, and Creators Agency, LLC (collectively, the “YouTuber Defendants”) (all, collectively, “Movants”) respectfully request leave to file separate motions to dismiss the *[Corrected] Administrative Class Action Complaint and Demand for Jury Trial – Promoters and Digital Creator Defendants* (ECF 179) because this pleading – in sharp contrast to each of the six

other Administrative Class Action Complaints (“ACACs”) (ECF Nos. 153, 155, 157, 158, 178 & 182) – names 21 defendants and is also much longer than the other ACACs. None of the other ACACs names more than 9 defendants and ECF 179 is also the longest pleading.

Accordingly, as explained more fully below – and fully recognizing the limits set by the Court in the PAPERLESS ORDER (“Briefing Order”; ECF 216) – Movants request that they be permitted two separate sets of briefs, one on behalf of the S&E Defendants and another on behalf of the YouTuber Defendants, in accordance with the briefing authorizations in the Briefing Order.

In support of this motion, Movants state:

1. At the Initial Conference on June 21, 2023, the Court agreed that Plaintiffs should file consolidated amended complaints directed to the separate groups of defendants they have named in this MDL within 45 days of the hearing. *See* Tr. (ECF 63) at 20-21; *see also* Order (ECF 61) at 4.

2. Plaintiffs filed the seven ACACs on August 7, 8 & 11.<sup>1</sup> The number of defendants named in each pleading and the differing pleading lengths are summarized in the following chart:

---

<sup>1</sup> The original ACACs directed to the “FTX Insider Defendants” (ECF 154), the “Promoters and Digital Creator Defendants” (ECF 156), and the “Multinational VC Defendants” (ECF 159) filed on August 7 and 8 were replaced with “Corrected” versions filed on August 11 (ECF Nos. 178, 179 & 182, respectively).

ECF	Defendant Group (as denominated by Plaintiffs)	Number of Defendants	ACAC Length (excluding exhibits)
153	Law Firms	1	107 pages/ 311 paragraphs
155	Bank Defendants	3	136 pages/ 359 paragraphs
157	Domestic Venture Capital Funds	9	294 pages/ 769 paragraphs
158	Auditor Defendants	2	185 pages/ 514 paragraphs
178	FTX Insider Defendants	4	147 pages/ 415 paragraphs
<b>179</b>	<b>Promoters and Digital Creator Defendants</b>	<b>21</b>	<b>312 pages/ 859 paragraphs</b>
182	Multinational VC Defendants	8	199 pages/ 554 paragraphs

3. Thus, the ACAC filed against Movants has, at minimum, over twice as many defendants as any other pleading and is also substantially longer – indeed, it is two to three times longer than some of the other pleadings.

4. On August 25, 2023, the Court issued the Briefing Order in response to a request by Defendants Armanino LLP and Prager Metis CPAs LLC – the so-called “Auditor Defendants” named in ECF 158 – to increase the page limits set by Local Rule 7.1(c)(2) to 50 pages for motions and oppositions and 25 pages for replies. *See* ECF 215 at 1-2.<sup>2</sup>

5. In the Briefing Order, the Court authorized briefs and associated page limits as follows:

in response to each Amended Complaint that they are named as a Party in: (1) Defendants are permitted to file jointly one 12(b)(6) motion and memorandum of law of up to 40 pages; (2) for those Defendants who wish to raise a personal jurisdiction challenge, Defendants are permitted to file jointly one 12(b)(2) motion and memorandum of law of up to 15 pages; and (3) to the extent applicable, Defendants seeking to raise unique issues or defenses not encompassed by the joint Rule 12(b)(6) or Rule 12(b)(2) motions, e.g., a challenge to adequacy of service of

---

<sup>2</sup> Page citations are to the ECF page number at the top of each filing.

process, are permitted to file individual motions and memoranda of law of up to 3 pages. ... Plaintiffs' responses to each motion shall be up to the same length as authorized for these motions. The joint reply for the Rule 12(b)(6) motion shall be up to 20 pages, the joint reply for the Rule 12(b)(2) motion shall be up to 8 pages, and all individual replies supporting the individual motions shall be up to 2 pages.

6. Movants fully respect and understand the Court's desire to limit the briefs in this complex matter. However, they submit that their situation is unique in comparison to that of the other Defendants by virtue of the substantially greater number of defendants named in their ACAC (21 vs. 9 in the second-most pleading) and much greater length of their ACAC (up to two and three times longer than several other pleadings).

7. Addressing the defenses properly raised by 21 different defendants within the limits of the Briefing Order would significantly impede Movants' ability to defend against Plaintiffs' unwieldy and sprawling – and, ultimately, meritless – claims.

8. Moreover, ECF 179 itself breaks Movants into two separate groups – both in title and substance. The pleading is directed to “Promoters and Digital Creator Defendants.” *See id.* at 1 (emphasis added). Within the pleading, the allegations as to the S&E Defendants are set out first, followed by the allegations as to the YouTuber Defendants, *see id.* at 108-283; in fact, the allegations as to the YouTuber Defendants are even set off with a separate heading, *see id.* at 275 (“xiii. Digital Creators Defendants”).

9. Accordingly, Movants submit that their particular circumstances warrant permitting the S&E Defendants to file their set of briefs in accordance with the briefing authorizations in the Briefing Order and, separately, permitting the YouTuber Defendants to file their own set of briefs, also in accordance with the briefing authorizations in the Briefing Order.

WHEREFORE, Defendants Thomas Brady, Gisele Bündchen, Stephen Curry, Lawrence David, Golden State Warriors, LLC, Udonis Haslem, Shohei Ohtani, Kevin O’Leary, Shaquille O’Neal, David Ortiz, Naomi Osaka, and Solomid Corporation (the “S&E Defendants”) and

Defendants Graham Stephan, Andrei Jikh, Jaspreet Singh, Brian Jung, Jeremy Lefebvre, Tom Nash, Erika Kullberg and Creators Agency, LLC (the “You Tuber Defendants”), respectfully request that the Court grant the S&E Defendants and the YouTuber Defendants leave to file separate sets of briefs in accordance with the briefing authorizations in the Briefing Order, and grant them such other and further relief as the Court deems just and proper.

A proposed order granting this motion is attached as Exhibit A and will be submitted to the Court via e-mail in Word format in accordance with S.D. Fla. CM/ECF NextGen Admin. Pro. 3I(6).

**Local Rule 7.1(a)(3) Certification**

On August 28, 2023, Christopher S. Carver, counsel for Defendants Haslem and Ortiz, telephoned Plaintiffs’ designated liaison counsel, Alex J. Brown, *see* ECF 59-1, with respect to the relief requested in this motion and was referred to Plaintiffs’ counsel Joseph Kaye by one of Mr. Brown’s colleagues, J. Davis LaBarre. Mr. Carver then telephoned Mr. Kaye (at approximately 4:15 p.m. EDT on August 28) explaining the requested relief, leaving a detailed voicemail. As of the time of this filing, Plaintiffs’ position is unknown.

Dated: August 29, 2023

Respectfully submitted,

**COLSON, HICKS, EIDSON, P.A.**  
255 Alhambra Circle, Penthouse  
Coral Gables, Florida 33134  
(305) 476-7400

By: /s/ Roberto Martínez  
Roberto Martínez  
Florida Bar No. 305596  
*bob@colson.com*  
Stephanie A. Casey  
Florida Bar No. 97483  
*scasey@colson.com*  
Zachary Lipshultz  
Florida Bar No. 123594  
*zach@colson.com*  
Thomas A. Kroeger  
Florida Bar No. 0019303  
*tom@colson.com*

*Attorneys for Defendants Thomas Brady, Gisele Bündchen, Lawrence David, Shaquille O'Neal, Golden State Warriors, LLC and Naomi Osaka*

**LATHAM & WATKINS LLP**

Andrew B. Clubok (*pro hac vice*)

*andrew.clubok@lw.com*

Susan E. Engel (*pro hac vice*)

*susan.engel@lw.com*

Brittany M.J. Record (*pro hac vice*)

*brittany.record@lw.com*

555 Eleventh Street, N.W., Suite 1000

Washington, D.C. 20004-1304

Tel: +1.202.637.2200

Fax: +1.202.637.2201

**LATHAM & WATKINS LLP**

Marvin S. Putnam (*pro hac vice*)

*marvin.putnam@lw.com*

Jessica Stebbins Bina (*pro hac vice*)

*jessica.stebbinsbina@lw.com*

Elizabeth A. Greenman (*pro hac vice*)

*elizabeth.greenman@lw.com*

10250 Constellation Blvd., Suite 1100

Los Angeles, California 90067

Tel: +1.424.653.5500

Fax: +1.424.653.5501

**LATHAM & WATKINS LLP**

Michele D. Johnson (*pro hac vice*)

*michele.johnson@lw.com*

650 Town Center Drive, 20th Floor

Costa Mesa, California 92626-1925

Tel: +1.714.540.1235

Fax: +1.714.755.8290

*Attorneys for Defendants Thomas Brady, Gisele Bündchen, Lawrence David, and Shaquille O'Neal*

**GIBSON, DUNN & CRUTCHER LLP**

Matthew S. Kahn (*pro hac vice*)

*MKahn@gibsondunn.com*

Michael J. Kahn (*pro hac vice*)

*MJKahn@gibsondunn.com*

555 Mission Street, Suite 3000

San Francisco, CA 94105-0921

Phone: 415.393.8379

Michael Dore (*pro hac vice*)

*MDore@gibsondunn.com*

Jamila MacEbong (*pro hac vice*)

*JMacEbong@gibsondunn.com*

333 South Grand Avenue

Suite 4600  
Los Angeles, CA 90071-3197  
Phone: 213.229.7155

*Attorneys for Defendants Golden State Warriors,  
LLC and Naomi Osaka*

**AKERMAN LLP**  
350 East Las Olas Boulevard – Suite 1600  
Ft. Lauderdale, FL 33301  
Tel.: 954-463-2700  
Fax: 954-468-2454

By: /s/ Christopher S. Carver  
Christopher S. Carver, Esq.  
Florida Bar No. 993580  
*christopher.carver@akerman.com*  
Jason S. Oletsky, Esq.  
Florida Bar No. 9301  
*jason.oletsky@akerman.com*  
Katherine A Johnson, Esq.  
Florida Bar No. 1040357  
*katie.johnson@akerman.com*

*Attorneys for Defendants Udonis Haslem and  
David Ortiz*

**WEIL, GOTSHAL & MANGES LLP**

By: /s/ Edward Soto  
Edward Soto (FBN 0265144)  
*edward.soto@weil.com*  
1395 Brickell Avenue, Suite 1200  
Miami, FL 33131-3368  
Tel.: (305)-577-3100

*Attorney for Defendant Shohei Ohtani*

**McDERMOTT WILL & EMERY LLP**  
333 SE 2nd Ave., Suite 4500  
Miami, Florida 33131  
Telephone: (212) 547-5768  
Facsimile: (305) 347-6500

By: /s/ Nathan Bull  
Nathan Bull (Fla. Bar No. 1029523)  
*nbull@mwe.com*

**McDERMOTT WILL & EMERY LLP**  
Jason D. Strabo (*pro hac vice*)  
*jstrabo@mwe.com*  
Ellie Hourizadeh (*pro hac vice*)  
*ehourizadeh@mwe.com*  
2049 Century Park East, Suite 3200

Los Angeles, CA 90067  
Telephone: (310) 788-4125  
Facsimile: (310) 277-4730

**McDERMOTT WILL & EMERY LLP**

Sarah P. Hogarth (*pro hac vice*)  
*shogarth@mwe.com*  
500 North Capitol Street NW  
Washington, DC 20001  
Telephone: (202) 756-8354  
Facsimile: (202) 756-8087

*Attorneys for Defendant Stephen Curry*

**MARCUS NEIMAN RASHBAUM  
& PINEIRO LLP**

100 Southeast Third Avenue, Suite 805  
Fort Lauderdale, Florida 33394  
Tel: (954) 462-1200

2 South Biscayne Blvd., Suite 2530  
Miami, Florida 33131  
Tel: (305)-400-4260

By: /s/ Jeffrey Neiman

Jeffrey Neiman  
Fla Bar. No. 544469  
*jneiman@mnrlawfirm.com*  
Jeffrey Marcus  
Fla. Bar No. 310890  
*jmarcus@mnrlawfirm.com*  
Michael Pineiro  
Fla. Bar No. 041897  
*mpineiro@mnrlawfirm.com*  
Brandon Floch  
Fla. Bar No. 125218  
*bfloch@mnrlawfirm.com*

**BERK BRETTLER LLP**

9119 Sunset Boulevard  
West Hollywood, CA 90069  
Tel.: (310) 278-2111  
Andrew B. Brettler (*pro hac vice*)  
*abrettler@berkbrettler.com*

*Attorneys for Defendant Kevin O'Leary and  
Solomid Corporation d/b/a Team Solomid, TSM  
and/or TSM FTX*

**LAW OFFICE OF JOSEF M.  
MYSOREWALA, PLLC**

2000 S. Dixie Hwy. Ste. 112  
Miami, Florida 33133  
(305) 356-1031



By: /s/ Josef M. Mysorewala

Josef M. Mysorewala, Esq.

Fla. Bar No. 105425

josefm@lawjmm.com

**FLANGAS LAW GROUP**

3275 South Jones Blvd., Suite 105

Las Vegas, NV 89146

Kimberly P. Stein, Esq. (*pro hac vice*)

kps@fdlawlv.com

*Attorneys for Defendants,*

*Graham Stephan, Andrei Jikh and*

*Jeremy Lefebvre*

**TOTH FUNES PA**

/s/Brian W. Toth

Brian W. Toth

Florida Bar No. 57708

btoth@tothfunes.com

Ingraham Building

Freddy Funes

Florida Bar No. 87932

ffunes@tothfunes.com

25 Southeast Second Avenue, Suite 805

Miami, Florida 33131

(305) 717-7850

e-filings@tothfunes.com

*Counsel for Defendant Tom Nash*

**STEARNS WEAVER MILLER WEISSLER**

**ALHADEFF & SITTERSON, P.A.**

By: /s/ Jose G. Sepulveda

Jose G. Sepulveda, Esq.

Florida Bar No. 154490

jsepulveda@stearnsweaver.com

mfigueras@stearnsweaver.com

150 W. Flagler Street, Suite 2000

Miami, Florida 33130

Telephone: 305-789-3200

and

POTOMAC LAW GROUP, PLLC

Derek Adams, Esq., *Pro Hac Vice*  
dadams@potomacclaw.com  
1300 Pennsylvania Avenue, NW, Suite 700  
Washington, D.C. 20004  
Telephone: 202-204-3005

*Counsel for Defendants Erika Kullberg, Brian  
Jung and Creators Agency LLC*

**CUMMINGS, MCCLORY, DAVIS & ACHO,  
P.C.**

By: *s/Michael O. Cummings*  
Michael O. Cummings  
New York Bar No. 2701506  
mcummings@cnda-law.com  
1185 Avenue of The Americas, Third Floor  
New York, NY 10036  
(212) 547-8810  
Ronald G. Acho  
Michigan Bar No. P-23913  
racho@cnda-law.com  
17436 College Parkway  
Livonia, MI 48152  
(734) 261-2400

*Counsel for Defendant Jaspreet Singh*